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PUBLIC HEARING
STATE OF CALIFORNIA
INTEGRATED WASTE MANAGEMENT BOARD
PUBLIC HEARING TO RECEIVE COMMENTS ON THE PROPOSED PERMIT
IMPLEMENTATION REGULATIONS (AB 1497)

JOE SERNA, JR., CALEPA BUILDING
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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

BOARD MEMBERS

Mr. Jeff Danzinger

Ms. Rosalie Mul

Ms. Cheryl Peace

Ms. Pat Wiggins

STAFF MEMBERS

Mr. Mark de Bie, Branch Manager

Ms. Bobbie Garcia, Staff

ALSO PRESENT

Mr. George Eowan, California Refuse Removal Council

Mr. Matt Fore, San Benito County

Mr. Chuck Helget, Allied Waste

Ms. Patti Henshaw, Orange County LEA

Mr. Justin Malan, Environmental Heath Directors

Mr. Greg Pirie, LEA, Napa County

Mr. Bill Prinz, LEA, City of San Diego

Mr. Larry Sweetser, Rural Counties Services Joint Powers
Authority

Mr. Michael Theroux, Theroux Environmental

Mr. Chuck White, Waste Management

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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

1 PROCEEDINGS

2 MS. GARCIA: We're ready to begin. I want to
3 welcome everybody here today. This is a public hearing on
4 the proposed permit implementation regulations.

5 My name is Bobbie Garcia. I'm one of the project
6 co-coordinators. I want to introduce Mark de Bie who is
7 the project manager of this reg package, and then Becky
8 Williams who is also a co-coordinator on the regs we're
9 working on.

10 I just wanted to let you know today we are also
11 audio broadcasting today's hearing for those of you who
12 couldn't attend the hearing and would like to hear some of
13 the comments that are being made today.

14 There is a sign-up sheet as you come into this
15 room. And I just want to make sure all of you had a
16 chance to sign in and so we'll have you on our mailing
17 list. And then also we left a copy of the proposed regs
18 in the back of the room in case you didn't bring them with
19 you and you'd like to refer to them.

20 I think all of you know, but the rest rooms are
21 outside the door and you hang a left and you will
22 eventually get to the rest rooms.

23 The purpose of today's hearing is to receive oral
24 and written comments on the proposed permit implementation
25 regulations. The Permitting and Enforcement Committee

1 directed staff at its November 7th, 2005, meeting to begin
2 a 60-day formal rulemaking process for these regulations
3 which are designed to address various permitting related
4 issues as well as clarify or add existing regulations.

5 The regulations also address AB 1497, which is
6 the Assemblymember Montaez bill which requires the Board
7 to define significant change in the design or operation of
8 a solid waste facility. It is not authorized by the
9 existing permit. And to establish public noticing
10 requirements regarding permit revisions.

11 The proposed regulations also apply to the public
12 noticing and hearing regulatory requirements for new
13 construction, demolition, and inert debris permit
14 applications to other solid waste facilities. The purpose
15 of that is to provide consistency and noticing and hearing
16 requirements for the different types of solid waste
17 facilities.

18 And before we begin, I want to remind you that
19 the 60 days written comment period ends tomorrow at 5:00.
20 That's June 6th. We need to receive all written comments
21 by 5:00 tomorrow if they are going to be considered as
22 part of the 60-day formal rulemaking comment period. You
23 can send them to me by e-mail if you would like. If that
24 speeds it up, that's fine for us. I think you have my
25 e-mail address. If you don't, it's in the notice for the

1 rulemaking. But you could also just come up at the end of
2 this hearing and I will provide that to you as well.

3 We plan to post it on the website. It will
4 probably be by sometime next week we will have all of the
5 comments that we have received from today if there's any
6 in writing as well as any that have come through the mail
7 and e-mail. And then as the transcript becomes
8 available -- we have a court reporter here today who is
9 transcribing everything that's being said, all the
10 comments. That will also be posted up on our website as
11 soon as it becomes available.

12 And quickly I just want to review the next steps
13 that we're going to follow after this hearing today. We
14 will consider all the comments we receive, and where
15 appropriate we will make the changes to the regulations.
16 We envision coming back to the Permitting and Enforcement
17 Committee in September for their consideration of a
18 revised version of the regulations. We are going to post
19 those revised regulations on our website, before we go
20 before the Committee. And we will also notify people,
21 individuals who are on our mailing list currently. And if
22 anybody here is not already on our list serve, mailing
23 list that would like to do so, just go ahead and leave me
24 your card and we will add you on to our mailing list.

25 We have a different kind of podium today. It's a

1 microphone. And just go on up. It's already on. And you
2 can present your comments that way. We need to do that
3 because of audio broadcasting so everybody out there, if
4 there is anyone, can listen in at the same time.

5 As you come up to the microphone, please identify
6 your name and affiliation just for the transcribing so we
7 can keep a record of the information for going to the
8 rulemaking process.

9 And it would help us tremendously if you have
10 comments today if you can provide us with those comments
11 in writing in a written letter. That would be very good
12 for us.

13 And lastly, if you've already submitted your
14 comments in writing or if you will be submitting them
15 before the end of the rulemaking tomorrow, it isn't
16 necessary for you to come up and give your comments and
17 put them into the record because we already will have
18 them.

19 So unless there's any questions, we can go ahead
20 and begin.

21 MR. WHITE: Was there a specific sign-up sheet
22 for speakers?

23 MS. GARCIA: No. You can just come up and
24 present your comments to the microphone.

25 So who would like to go first? Anybody have

1 comments today or if you'd like to read into the record?

2 I guess everyone here is pretty well satisfied.

3 Okay. Chuck is.

4 MR. WHITE: I do have some copies of our
5 comments. They're joint comments with Allied Waste and
6 Waste Management.

7 MS. GARCIA: Thank you.

8 MR. WHITE: And for the most part, I think our
9 comments are that we really appreciate and we support the
10 regulations and will add needed clarity.

11 I thought about bringing my favorite little book
12 called, "The Death of Common Sense; How Regulations are
13 Suffocating America," but I thought better of it and
14 decided to forgo that opportunity.

15 But these are pretty comprehensive regulations.
16 And on one hand, there's always the desire to have ever
17 more thorough descriptions and guidance so as to make sure
18 it's clear what the manual practice is with respect to
19 permitting. On the other hand, can we just rely on common
20 sense to be able to make decisions with respect to the
21 permitting of solid waste facilities?

22 Our comments are essentially in two areas. One
23 is the issue with respect to minor changes. And I think
24 it's fair to say that Waste Management and Allied Waste
25 would like to have as broad an inclusion of those types of

1 things that are considered to be minor. And we certainly
2 would prefer Option 2 of the two that are presented,
3 because we think for the most part -- and there was I
4 think a majority consensus in our working group if not
5 100 percent consensus that the majority of all of those
6 items that are listed on Options 1 and 2 do really pass
7 the threshold of being a very minor change. However, our
8 concern is also that there may be other types of changes
9 that we really didn't think about. I guess there is a
10 list of about 35 or 36 changes. What about the 36th or
11 37th we didn't think to include?

12 So we're suggesting that there be some additional
13 language that's added to line 7 on page 6, at least of the
14 copy I have. I don't know if it's on the one you're
15 handing out today. It's the provision that says that a
16 minor change has to be listed below. And we're suggesting
17 adding the language the minor change is listed below. Or
18 if not specifically listed, the EA makes a written
19 determination in advance of a change that the minor change
20 is consistent with the nature and scope of the minor
21 changes listed below.

22 This would give the EA the opportunity to be able
23 to make a determination that some other change that's not
24 listed is within the scope of those changes. It wouldn't
25 allow the operator to go ahead and make those changes, but

1 it would allow him or her to work with the EA to obtain
2 some kind of written consent in advance that the nature of
3 the change is of sufficiently minor scope to allow it to
4 proceed without invoking the whole various permitting
5 tiers that the rest of the regulations envision.

6 And then with respect to the substantial change
7 provision, we have really -- I didn't give you a
8 definitive answer to our concern, but we gave you three
9 options. And one option would be simply do not list any
10 specific significant changes and allow the decision tree
11 process in the regulations to proceed to define what
12 constitutes significant.

13 Our concern is that the list of basically four --
14 well, four categories, but increases in permitted tonnage,
15 increases in permitted acreage, and increases in permitted
16 hours of operation and the specific provisions for
17 landfills including disposal footprint, permitted final
18 grade, and maximum overall height, that for the most part
19 if you're talking about major changes in any of these
20 things, they're clearly significant changes. But there
21 may be minor adjustments. All of us have come across
22 problems in our permits where one permit reads slightly
23 different than another, and so you might want to make --
24 as we get more and more sophisticated with our permitting
25 process for solid waste facilities, you might want to have

1 a way to be able to make those minor adjustments even
2 though on outward appearance it would appear to be a
3 significant change if it's only a minor adjustment to the
4 provision. So our first preference would be to leave it
5 out all together and allow the decision tree process to
6 proceed.

7 On the other hand, if that's not acceptable, we
8 think there needs to be some kind of cutoff below which
9 there's a threshold of significant. Some people have
10 suggested a 5 percent change. Some people suggested 20
11 percent change. We're suggesting maybe a 10 percent
12 change in any of these things below which would not be
13 considered to be automatically significant. It would
14 still have to go through the decision tree process, which
15 then would allow the EA to make a determination if it is
16 in fact significant.

17 For example, if you wanted to add an acre --
18 quarter acre parcel to your permitted facility but you're
19 not going to change the overall nature and scope of your
20 operation, why not be able to add that quarter acre as an
21 in-fill type of thing to your permitted facility area.
22 It's not significant. You're not changing your
23 operations. But it wouldn't be automatically included
24 just simply by virtue of the fact you're changing your
25 permitted acreage. So if there was a provision such as 10

1 percent or some other numerical amount below which it
2 wouldn't automatically be a significant change but it
3 still could be considered a significant change through the
4 decision tree process, that would be our second most
5 preferable option rather than leave it out all together.

6 Our third most preferable option would be rather
7 than add a specific numerical amount like 10 percent, add
8 the term "substantial" into each of these things. A
9 substantial increase in maximum amount of permitted
10 tonnage. A substantial increase in permitted acreage. A
11 substantial increase in hours.

12 And then you'd have to go through of course --
13 and I bring out my little red book, "The Death of Common
14 Sense; How Regulations Suffocating America," and you have
15 to add a definition of what constitutes "substantial."
16 And we suggested if you do go this route that something
17 like the following might work. For purposes of this
18 section, substantial increase means as determined by the
19 EA a change of such magnitude that: One, the operation of
20 a facility would be inconsistent with the most recent
21 environmental documents prepared by the facility; and two,
22 the change is of such importance, value, degree, amount,
23 or extent that the facility's operation would be
24 materially different. And so if that would allow a
25 discretion to be applied whether it's a change -- a small

1 minor change in any of these factors, they wouldn't be
2 necessarily considered significant. They would drop off
3 the automatic significant list and still be considered
4 under the decision tree process.

5 Related to this last change, we think there needs
6 to be a change in the term non-material. It's defined up
7 front. And the current definition of non-material reads
8 as if you can't make any physical change or anything that
9 would alter the approved design or operation of a
10 facility. So we think that we need to add some qualifying
11 language to that non-material change definition such that
12 the change is non-material if it does not result in any
13 substantial physical change that would materially alter
14 the approved design or operation of the facility.

15 We think these changes, with a broad list of
16 minor changes, recognizing if you go ahead and make a
17 change on this minor list and an EA comes along afterwards
18 and said, "No, I don't think that was a minor change," you
19 can still be brought back into the tiered permitting
20 process. But we think there needs to be a process that
21 would allow minor changes that are not listed to be added
22 with advance written approval from the EA.

23 And then finally, we think the substantial
24 changes, there need to be greater latitude given to the
25 EAs either through not having specific listing of

1 substantial changes or through the qualifications I
2 discussed in my presentation. That's my comment before
3 Allied. And I don't know if Chuck Helget wants to get up
4 and add anything to that. I'm sure he wants to have his
5 few seconds.

6 MS. GARCIA: Thank you, Chuck.

7 And now we'll have Chuck Helget from Allied Waste
8 speak.

9 MR. HELGET: Chuck Helget from Allied Waste.

10 I'll be adding the non-material and insignificant comments
11 from our letter, discussing those a little bit.

12 I just want to reiterate some of the testimony
13 that Chuck made, but very briefly and also point out our
14 support for the regulations generally. And specifically
15 towards the decision tree approach, which I know in the
16 many, many hours that we spent around the holiday season,
17 Bobbie, talking about these regulations and the exchanges
18 that we were able to have with the LEAs I thought it was
19 very fruitful and very good discussions.

20 But I do want to focus a little bit on what is
21 non-material, the insignificant change list, and why at
22 least we believe it's an important aspect of these
23 regulations.

24 Clearly, the other end of the spectrum, the upper
25 end of the spectrum, what is significant, what is a major

1 change to a facility is certainly the most important part
2 of these regulations. But from an operator's perspective,
3 having to deal with the administrative changes in an RFI
4 and the administrative changes in the RFI and the
5 administrative changes that are associated with that can be
6 a very frustrating process, time consuming, and takes them
7 a way oftentimes from the things they really should be
8 focusing on.

9 So from that perspective, we would strongly urge
10 consideration of the two parts to the list that's being
11 proposed and serious consideration of the language that
12 was proposed, because we do believe the LEAs need to have
13 some flexibility in making those determinations. And we
14 think -- we hope that language provides that flexibility
15 and it provides some surety for the operators that there
16 are certain administrative functions that aren't going to
17 trigger major changes or major amounts of paperwork to
18 amend an RFI. Thank you.

19 MR. EOWAN: George Eowan, California Refuse
20 Removal Council.

21 I first want to say that your process was I
22 thought a very, very good process and resulted in I think
23 some real good language and an opportunity for us to
24 really engage with LEAs and Waste Board and other people.

25 I like a lot of what you have in the regulations

1 and echoing a lot of what Chuck said -- both Chucks. The
2 modified permit I thought was a good addition. But what I
3 really liked was your attempt to do three things. One was
4 the minor change list, the decision tree, and then the
5 significant change. I think those are sort of the three
6 key elements of it.

7 And in our workshops, we spent a significant
8 amount of time on the minor changes. And I think, you
9 know, it maybe was a lot of time spent on minutia per se.
10 But as Chuck Helget just said, those things from an
11 operator's point of view can really take up your time. So
12 I thought even though it's a minor change, it's an
13 important time and money issue for operators. And for
14 that reason, we'd like to support Alternative 2 which is
15 as inclusive as possible, but with the addition of some
16 kind of language that Chuck White alluded to and maybe
17 others will that gives flexibility to the LEA to include
18 other issues that again we haven't thought of. So I think
19 something along those lines is what we would like to see
20 there.

21 The decision tree concept, I think the real
22 benefit of that -- it's pretty much what we're doing now
23 anyway in large measure, but it does add clarity to the
24 process, which is one thing that I hope that comes out of
25 all of these regulations is we have more and more clarity

1 and certainty as to what you have to do to get a permit
2 for a certain thing, a certain kind of change you're going
3 to do in your facility. And I think the decision tree is
4 a good piece of work to get to that point.

5 Now when you get to the significant change list,
6 then we run into a road block, because the way the list is
7 written, it pretty much negates what the decision tree
8 tries to do. And so that gives me a problem.

9 And I also think that the significant change
10 portion of it in many ways is at least a major part of
11 what 1497 was trying to get at. So I think we need to pay
12 some attention to that. And the concept of a 10 percent
13 change does add some certainty to it without taking away
14 the flexibility of the situation. Because if you're under
15 10 percent, you would immediately fall back to your
16 decision tree, which is what I think is kind of the heart
17 of what you're trying to do here in these regs. But it
18 also would add a certainty for the operator to know what
19 he's facing when he or she is doing a certain kind of
20 activity or new activity at the facility. So for that
21 reason, we would bump up the 10 percent concept in those
22 four items and maybe put the -- kind of reverse Chuck
23 White's concepts a little bit in terms of number one and
24 number two.

25 But I think for that reason that it adds that

1 clarity. It gives some substance to your significant
2 change concept that everybody understands there's no
3 ambiguity about it whatsoever. Because if you substitute
4 other words, other qualitative words to it, you really
5 haven't done anything and you're automatically going to
6 fall back to the decision tree anyway. So that's what
7 we're trying to do with that.

8 But again, I thought it was a great process and
9 look forward to it. You'll get our written comments as
10 well. Thanks, Bobbie.

11 MS. GARCIA: Thank you.

12 MR. PIRIE: Greg Pirie, Napa County LEA, also
13 representing the Bay Area LEAs. And as other people said,
14 the process by the staff I thought was really good. It
15 had a good involvement of LEAs, operators, Board members
16 presence. So it was definitely much appreciated.

17 So specifically right from the Bay Area
18 roundtable representing Alameda, Contra Costa, Santa
19 Clara, city of San Jose, Monterey, San Mateo, city of
20 San Francisco, Marin, Solano, Sonoma, Napa, pretty much a
21 consensus from this group.

22 Fully support the decision tree as a process to
23 identify whether a change in the design or new facility
24 requires an RFI amendment, modified, revised permit, or
25 new permit. I think it's pretty consensus the decision

1 tree is definitely a good way to go.

2 Number two, do not support the minor or optional
3 minor or minor change list as criteria that must be met to
4 implement a change without LEA/EA approval for the review.
5 But we do support writing a guidance document that could
6 assist owners and operators of an applicable means of
7 processing minor changes to a permit.

8 And definitely one strong key when we start
9 dealing with the significant change list is maintaining
10 local control on discretionary action as central to the
11 permit process. I think that's a real key we need to look
12 at when we talk about the significant change list and
13 what's included.

14 And do not support the requirement of posting or
15 notices for just the RFI amendments since they're more on
16 a non-significant, doesn't rise to the level of needing
17 public notice for that.

18 And more specifically, so on the decision tree,
19 you know, obviously we're all trying to define significant
20 change and what it is. I think the decision tree really
21 allows you to have a methodology to go through that,
22 whether it's starting out with an RFI, the modified which
23 it seems like a lot of people would really support going
24 to the revise in a full permit. I think you need to look
25 at just the methodology of going through the decision tree

1 as being the identifier to what is going to be a
2 significant change and not specifically going to the list.

3 And also the decision tree really allows and
4 keeps where it should be the discretionary action of what
5 the LEA is doing, and thus I think the Board should
6 recognize their decision. Obviously, LEAs are certified
7 through the Board and on paper represent the Board to
8 really keep that discretionary action where it should be.

9 And specifically to the significant change list,
10 I don't think it would be a really good benefit for
11 discretionary actions the LEAs are making. It would be in
12 the Board's interest.

13 Just as an example, in making discretionary
14 actions -- and I would also like to see if there's any
15 real examples especially in the minor changes list of
16 these items on here that have really been a problem to the
17 permit process. Here's one example. I think it's ii.
18 Changes in the training plan that do not effect the type
19 or decrease the amount of training given to employees. I
20 think we need to realize that some of these are already
21 included in the RFI process that the LEA actually makes
22 the discretionary action on, are the employees trained
23 properly. That's in the first change list.

24 Other items that would be in here that I would
25 assume that would be more appropriate to sit down with an

1 LEA and see if it's appropriate to actually do a revise or
2 modify before it even is on a list, changes of name and
3 phone number or other contact information that would
4 require change of the owner/operator. That would be
5 something I would expect to see in a five-year permit
6 review, my own opinion.

7 Changes in emergency equipment with the same
8 functionality. I would expect a lot of things to be sit
9 down and talk to the LEA to see if they need to be put in
10 the list or not.

11 Changes in tanks and storage of material, we
12 talked a lot about this at the workshop that we had. If
13 these are not in a permit in the RFI, there's a lot of
14 things you can do without having to talk to the LEA. If
15 it conflicts with a permit, sure, it can be included in
16 this dysentery and done in a correct manner.

17 The Alternative 2 list I would have a very hard
18 concern, very deep concern keeping this as a list that
19 would be done without any LEA approval. As an example,
20 changes in name only of owner/operator. You know, we
21 already have a really good system in place to have a 45
22 day review of owner/operators. I'll have one coming up
23 real quick to where, you know, if there's no conflict with
24 either the permit or anything like that, you could do that
25 in two or three days. Seriously, it's not that big a

1 deal.

2 Change in facility signing wording consistent
3 with State minimum standards. With one of my sites that
4 wanted to change a few things, that is actually another
5 thing that's included in your RFI that I would consider a
6 discretionary action in my opinion.

7 Changes in the location of facility records,
8 another one in Alternative 2. That's another item that
9 would be in an RFI that I would consider as a
10 discretionary action of where the LEA must make a
11 decision. So that's just a few examples.

12 And just in terms of the public noticing for RFI
13 amendments, I just think I have a few comments coming from
14 the Bay Area LEAs that it just seems like it's at so much
15 of a low level that it doesn't need noticing on that.
16 Revised permits, maybe new permits, totally appropriate.
17 And, of course, you always have to realize locals that are
18 going to know the problem. I've had so many people come
19 to me and say we've had to do the 1497 hearing. We had
20 zero people show up. We had two people show up. So you
21 have to look at the impact LEAs are going to have in the
22 office too.

23 MS. GARCIA: Thank you, Greg.

24 And Justin Malan.

25 MR. MALAN: Justin Malan with the Environmental

1 Heath Directors.

2 And first again want to commend the Board and the
3 staff on a great process. Hope that some of the other
4 Cal/EPA BDOs and other agencies take note of how thorough
5 you are in your outreach and communication on your reg
6 package. I mean that in all sincerity, because we often
7 get sideswiped by other State agencies at the local level.
8 Even though it's being posted, there's very little
9 outreach to folks that are stakeholders or severely
10 impacted by regs that go through. So to be commended
11 again.

12 In general, we're very supportive of the package
13 and we also defer most of the detail and offer our fullest
14 support to the LEAs. In general, I think the issue that
15 we'd like to see is to retain the LEA discretion. But if
16 the Board were to feel compelled to come up with some sort
17 of list, we'd like to see an LEA override. And really
18 what that means is that you can have your list, but if
19 there's an extenuating circumstance, if there's a really
20 important reason that maybe we don't see up front -- say
21 there's a Water Board issue or an Air Board issue or
22 something else that doesn't look that apparent and the LEA
23 notices it, then they can say, "Yes, you're on the list,
24 but." So there's an override. There's a compelling
25 reason to take it off the list or put it on the list. And

1 we do that with several other programs, particularly in
2 the Toxics Program. And it works well. It's like
3 ratcheting someone up or down one of the tiering when you
4 have to tier them in the permit.

5 So that's really our strongest comment is that it
6 will be difficult for the Board to decide whether it's a
7 10 percent or 5 percent, whether to have the list or not.
8 I know the LEAs are going to appeal not to have these
9 lists or certainly not to have a significant list. But I
10 would urge the Board and the staff to consider this sort
11 of override.

12 Then we won't have to do what my esteemed
13 colleague Chuck White recommends and introduce another
14 term with substantial. Because I can commit if you put
15 that term in, it will be another 15 years debating what
16 substantial is and we have to go through another set of
17 regulations. Thank you.

18 MS. GARCIA: Thank you, Justin.

19 MR. THEROUX: Good afternoon. Michael Theroux,
20 Theroux Environmental.

21 I have one point I'd like to work on. It's
22 following what we've been discussing here having to do
23 with significance. The regulations help take that, that
24 is the purview of the Waste Board, and define what then
25 becomes the issue in CEQA and/or NEPA as we go further.

1 If you look a little further down the road and we're faced
2 with the CEQA documentation that needs to determine
3 whether or not an element within the Waste Board's purview
4 is indeed a significant change, that's the determination
5 of significance that we need to rely upon.

6 I agree that the changes should be left to the
7 LEA. I see no reason to say possible changes such as.
8 But a hard list is just problems.

9 But I would also suggest -- I don't know if it
10 needs to be in the regulation, although I would suggest
11 not putting a closed list in the regulations. I certainly
12 don't think that's appropriate. But I think we already
13 have existing policy regarding ratcheting up as was
14 suggested. I think that any time that a request comes to
15 the LEA determination perhaps from the decision tree comes
16 out of the LEA, if there's a point of dissension or if
17 there is a potential conflict in the future, particularly
18 if we're looking down the road to CEQA or NEPA, then I
19 think it would be appropriate to lean on that policy of
20 the Waste Board that the LEA can request of the Waste
21 Board a finding.

22 And I think if we look at this in terms of where
23 we're going with the determination of significant, if down
24 the road we find that we see there is a formal finding
25 that resulted from a discussion of this nature, that

1 finding would stand as the purview item within a CEQA or
2 NEPA documentation. And that's the point that I would
3 like to see.

4 Now whether or not that has to be in the
5 regulations, I think it's already standing policy. But
6 if, indeed, we can take the one item of question and bring
7 it before the Board for a finding and the formal finding
8 be made on that issue of significant in terms of the
9 Board's purview for CEQA or NEPA in the future, I think
10 we've closed the loop on what the 1497 was trying to do.
11 Thank you.

12 MS. GARCIA: Thank you, Michael.

13 Anyone else with comments today? Bill Prinz.

14 MR. PRINZ: My name is Bill Prinz. I'm with the
15 City of San Diego LEA. And I'm also Chair of the EAC.
16 And both the City LEA and the EAC have submitted comments.
17 And I just kind of wanted to touch on some of the things
18 we talked about.

19 We agree with what Greg Pirie said from the Bay
20 Area roundtable. And couple of the other issues. And
21 also to dovetail on what Justin said a little bit. There
22 is a proposed regulation in regards to the two minor lists
23 that would allow the LEAs to override a minor change that
24 happened. You know, perhaps after going out in the field
25 after receiving the minor notice, they could go out and

1 require an application if they determined there was
2 something more going on than the minor change. So but
3 however, our preference would be not to have a list, to
4 have more open discretion, and then to maintain the local
5 discretion that was discussed earlier. But we would want
6 that -- if the list were to be included, we would want to
7 make sure that that Section 21620 (a)(1)(e)(3) stayed
8 intact in its current language.

9 Another issue in regards to permit modifications,
10 that process would allow the Board's Executive Director to
11 concur or object to a non-material change to an
12 application or permit. However, the permit modification
13 process as proposed does not provide for recourse if the
14 Executive Officer objects to the application. Basically,
15 he would give his list of reasons and then send the
16 application back. Where we would like to see some sort of
17 an appealable process that would allow the LEA or more
18 perhaps the applicant if they disagreed with the
19 determination made by the Executive Officer that instead
20 of -- that would effectively send that application all the
21 way back to square one, where they'd have to go back and
22 have a hearing by the enforcement agency again and start
23 over the whole 180-day process. Whereas, if there was an
24 opportunity to appeal that objection to the modification,
25 then perhaps it would either, you know, be held up or it

1 might be, you know, have to go back. But there would be
2 more of a recourse for the operator or the applicant or
3 for perhaps even the LEA.

4 And the EAC and the City of San Diego were both
5 opposed to the significant change list, list three on the
6 regulations. And so we would like to see that basically
7 taken out of the reg package. And basically that's our
8 comments. Thank you.

9 MS. GARCIA: Thank you, Bill.

10 Now we have Patti Henshaw.

11 MS. HENSHAW: I was involved with a lot with this
12 process, and so I just want to say it was a really good
13 process and allowed the LEAs a lot of involvement and a
14 lot of interactions between the operators and the LEAs and
15 the Waste Board staff. So it was a really positive
16 process, and I think we have a good set of regs to work
17 with.

18 Of course, we're very supportive of the decision
19 tree. I think it's a very transparent process that helps
20 everybody including the public to see how the process
21 works and to be able to jump in and question it if at
22 certain points of the decision tree if they don't agree,
23 but at least we have one kind of standard thing to
24 discuss.

25 The minor change list which I worked with

1 operators on that too. I was involved with it. It sounds
2 easy, but it's a lot more complicated than you think.
3 While we can live with the minor change list, I would
4 recommend actually they put in advisory. For the very
5 reason a lot of people even Chuck and Chuck said was is
6 because, you know, sometimes something could be on the
7 minor list and then we really look at the situation and
8 it's not minor for that facility. Or there's something we
9 hadn't thought about that should be on the minor list. So
10 I think an advisory setup where you have examples for
11 people to look at and work with, then, you know, at least
12 we have something to discuss and decide okay, this is
13 minor. We're not going to go through the RFI amendment,
14 so on, so on.

15 The significant change list, we're completely
16 opposed to it. We think the whole purpose of the decision
17 tree is to get to a significant change decision. So a
18 significant change list of any sort is always going to
19 have some issue and some problem with some facility. We'd
20 rather not even go there. Let the decision tree do what
21 it's supposed to do. That's the whole point of the
22 decision tree. As with any list, if you take out a list
23 and reduce how many lists you have, it's always better.
24 We think the significant change list we can't live with at
25 all.

1 There's one thing that nobody has mentioned yet.
2 There's a requirement for informational meetings on, you
3 know, new permits or revised permits. But also
4 standardized permits and registration permits can be new
5 and revised. And the whole process of informational
6 meetings and the whole thing shouldn't be meant for
7 standardized and registration permits. They're really
8 meant for full permit. AB 1497 was focused on revised
9 permits, full permits. It wasn't focused on registration
10 or standardized. Standardized and registration permits
11 from the Board was meant to be a shorter process, you
12 know, for facilities that have less significant issues.
13 And so to slow down that permit process to have an
14 informational meeting I think defeats the purpose of why
15 we have standardized and registration permits. The time
16 frames are all shorter. So let's just keep it with
17 revised permits and new permits require an informational
18 meeting. We still have all the noticing requirements that
19 we can go with standardized and registration, but let's
20 take that out. I think it costs a lot of money for LEA
21 resources and it costs the operator lots of money. So we
22 don't need that.

23 Noticing requirements, I think they're a great
24 idea. We'll have to get busy on our website. But why I
25 think it's important for modified and new and revised

1 permits, I don't think it's really necessary to the extent
2 it's laid out in the regulations for an RFI amendment.
3 That's a short process, a 30-day process. I just don't
4 think that's meant to have that kind of degree of
5 noticing. It sounds easy, but it's still work to get it
6 on the website. It's still work for the operator to put
7 that information out. It's supposed to be a short
8 process. Sometimes we like to do it within a week, but we
9 have to extend it to meet that noticing requirement. We
10 just say remove it for the amendments.

11 The one last thing I just want to mention, even
12 though it's kind of mentioned in the regs, kind of between
13 the lines, the Government Code that requires noticing
14 within 300 feet of property boundary, landfills a lot of
15 times have the community that's impacted beyond 300 feet.
16 And it's a cost to the operators to do the noticing, but I
17 think there needs to be a little bit more language in the
18 regulations that give more power to the LEA to say, look,
19 yes, it says 300 feet, but we have a community at 600
20 feet. We need to notice. If it's going to cost some
21 money to notice, that's the way it is. We need to be
22 transparent. I think a lot of our operators especially I
23 feel the operators in Orange County will go along with
24 that because we all want to be transparent and be up front
25 with what's going on. But I'm always looking for the

1 worst case scenario, and I want to make sure it's clear
2 the LEA has the ability to require further noticing if
3 reasonable based on the community that's impacted. And I
4 think that's it. And I'll turn in my comments and thank
5 you.

6 MS. GARCIA: Thank you, Patti.

7 Any other comments?

8 MR. FORE: I'm Matt Fore. I'm representing San
9 Benito County LEA as well as the South Central LEA
10 roundtable which consists of Fresno County, Madera County,
11 Merced, Tulare, Kings, Mariposa, Tuolumne, Kern, and as
12 well as San Benito County.

13 So just to echo previous comments, we do
14 appreciate the process of this regulation package and
15 having such an ample opportunity to comment on the
16 formation from the genesis of it. However, I do have
17 several comments on behalf of the LEAs I just mentioned
18 regarding this package.

19 The first has to do with the public noticing and
20 informational hearing requirements. While we do support
21 the inclusion of public comment in the decision making
22 process, based upon our experience with the AB 1497
23 requirements for revised full permits, we believe the
24 additional requirements for public noticing and
25 informational meetings are unnecessary in comparison to

1 the benefits we have seen derived thus far.

2 As Patti said, the requirements -- these
3 requirements are seemingly innocuous. Yet for LEAs,
4 especially those small rural LEAs in the central valley,
5 they're quite burdensome. Public noticing requires
6 drafting, translating, posting, and publishing the notice
7 as well as in some cases holding the actual meeting. This
8 is extremely time consuming for the LEAs, essentially if
9 the meeting requirements and the noticing requirements are
10 expanded to include the other tiers that are outlined in
11 this regulatory package beyond the full solid waste
12 facility permit revisions contained in AB 1497. I
13 personally have held two AB 1497 hearings thus far. They
14 were properly noticed and advertised and I had zero people
15 show up at either hearing.

16 We would support additional noticing and meetings
17 for full new permits only in two cases. The first would
18 be if the CEQA hearing were conducted more than one year
19 prior to the EA deeming the application complete and
20 correct, which I believe is a provision in the draft regs,
21 or if local interest in the project warranted additional
22 noticing and meetings. For example, in a project were
23 appealed from the planning commission level to a higher
24 local governing body level, that would indicate a higher
25 level of interest in the project which we would take

1 notice of and provide additional forums if necessary.

2 Our other comments pertain to again the
3 significant change determination. The South Central LEA
4 round table supports the decision tree over the list, and
5 we feel that the decision tree provides for the best
6 process for determining significant change while
7 preserving LEA discretion.

8 Finally, and again this is another one of those
9 small changes, the current draft proposes to place the
10 responsibility for notifying operators of standardized and
11 registration facilities of the upcoming permanent review
12 on the LEA, and it's currently done by the Board. The
13 Board has illustrated its ability and capability of
14 tracking databases and managing critical tasks by virtue
15 of its SWIS database and the inventory for State minimum
16 standards violations that are very capable and adept at
17 doing so. And as small -- again small LEAs that have
18 limited resources and limited in terms of personnel and
19 computer programming and computers in general, we believe
20 that the Board is in the best position to continue this
21 test. So thank you for the opportunity to comment.

22 MS. GARCIA: Thank you.

23 Are there any other comments today? Larry or
24 Chuck.

25 MR. SWEETSER: Larry Sweetser on behalf of the

1 Rural Counties Services Joint Powers Authority, and I'm
2 going to let Chuck have the last one on this one.

3 I'm going to focus on two major comments. We'll
4 be submitting some. And again like many others, I did
5 find the process very helpful where you have staff, LEAs,
6 and operators in one room looking at the same picture and
7 all coming up with different answers. It was very
8 helpful. We did get to some consensus, although the major
9 frustration for the whole thing for me was with that many
10 people in the room, it took one vote to take something off
11 the list, no matter what the rationale was. And I talked
12 to some of the people after and was amazed at the
13 rationale. But never the less, we did end up with that
14 list.

15 First off, the minor change provision. I also
16 want to echo the concept about the physical change
17 portion, because there are many things that are physical
18 and I guess I just don't understand what definition we're
19 using of physical change is. Because even some of the
20 things that are on the minor list now you could look at
21 being physical changes. When you add equipment, that can
22 be a physical change. You're making a change to something
23 that was there or wasn't there or changing its
24 configuration. When you change a tank, you're making a
25 physical change. So if we limit the material change to

1 things that are only physical, that causes a problem. So
2 I'd like to see that removed, and I do support the Waste
3 Management language on that for non-material change to
4 remove the physical change portion.

5 On the list, we do support having more discretion
6 on that list. I mean, we can be only so creative in the
7 time we had. I can continue to think of more changes that
8 could be on a list of things that would be significant if
9 we do keep the list in there, including a couple that I
10 had mentioned at one of the original workshops. And now
11 that the old Chair of the Board is not here, for the
12 benefit of the new members I can mention them, was one
13 example is if we change the color of our vehicles, that
14 could be a change. If we're looking at any change being
15 triggering some sort of a permit change, that one seemed
16 too ludicrous to be on the list. I'm not sure where it
17 would fall under this new methodology.

18 The other one is if we have to move a porta-potty
19 from one side of the road to another or another location,
20 that's a physical change. So those are ones -- the kinds
21 of things that we can continue to come up with a
22 never-ending list. So if we only have a limited list, I
23 think that works to the detriment of everyone.

24 And I think most operators are willing to have
25 some criteria for things to be a minor change and we're

1 willing to risk violations or areas of concern if it turns
2 out later that it isn't for some of these things that are
3 so minor. But by all means, we want to work with the LEAs
4 as much as we can, but there's some things we feel are so
5 minor we need to have that ability to make the changes and
6 notify either after the fact or during as mentioned in the
7 proposed regs. Thank you.

8 MS. GARCIA: Thank you, Larry.

9 Other comments? Chuck White.

10 MR. WHITE: Chuck White, Waste Management.

11 I just want to add one further clarifying comment
12 related to minor changes. As we indicated in the letter
13 from Allied and Waste Management encourages you to have as
14 broad a list of minor changes in the regulations. This
15 will give comfort to the regulated community that these
16 things are, in fact, minor and aren't subject to the
17 permitting process.

18 But we think that -- at least one speaker pointed
19 out that key provision on page 7 of the regulation on
20 lines 22, 23, and 24 that says, "However, if the EA
21 determines at a later date the change does not meet the
22 criteria for minor changes, the EA may require the
23 operator to comply with all applicable requirements." We
24 think this really is a great safety net, and we want to
25 see it left in place. Because if for some reason the EA

1 does believe it was something that was on the minor change
2 list or was being inappropriately applied and the operator
3 went ahead and did, the operator cannot make a minor
4 change without notifying the EA within ten days in writing
5 of that minor change. So this gives a good safety net.
6 And I would argue that it argues for inclusion of as broad
7 a list as possible.

8 But of course at the other end of the spectrum,
9 do we really have everything listed, and that's the
10 another provision that we suggest should be added, that
11 EAs do have the discretion to consider other things that
12 might not be specific on the list but through some kind of
13 process of advanced written approval to the operator that
14 they consider it to be similar and minor in nature.

15 So I really wanted to clarify those comments to
16 make -- we want to give broad latitude, but we sure like a
17 broad list to give us some comfort that we can go ahead
18 and make our changes without triggering a permitting
19 process. Thank you.

20 MS. GARCIA: Thank you, Chuck.

21 Are there any other comments today? Okay. If
22 there aren't any other comments, I look forward to getting
23 the comments we heard today. If we don't have them in
24 writing, if you can provide those in writing. Some of
25 them are fairly complicated to follow. I'd appreciate

1 that. And look forward to hearing from as many of you out
2 listening to the audio broadcast today, please get your
3 comments to us again by tomorrow by 5:00 p.m.

4 And that concludes our hearing today. Thank you
5 everybody for attending.

6 (Thereupon the California Integrated Waste
7 Management Board Public Hearing
8 Adjourned at 2:27 p.m.)

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1 CERTIFICATE OF REPORTER

2 I, TIFFANY C. KRAFT, a Certified Shorthand
3 Reporter of the State of California, and Registered
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing hearing was reported in shorthand by me,
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8 State of California, and thereafter transcribed into
9 typewriting.

10 I further certify that I am not of counsel or
11 attorney for any of the parties to said hearing nor in any
12 way interested in the outcome of said hearing.

13 IN WITNESS WHEREOF, I have hereunto set my hand
14 this 13th day June, 2006.

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